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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,519	11/14/2003	Robert E. Platt	1522-K-CONT	9978
27542	7590	04/06/2005	EXAMINER MACARTHUR, VICTOR L	
SAND & SEBOLT AEGIS TOWER, SUITE 1100 4940 MUNSON STREET, NW CANTON, OH 44718-3615			ART UNIT 3679	PAPER NUMBER

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/713,519

Applicant(s)

PLATT, ROBERT E.

Examiner

Victor MacArthur

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “front wall” (line 3 of claim 1), “first connector mechanism” (line 6 of claim 1), and “second connector mechanism” (line 9 of claim 1) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

- The phrase(s) “front wall” (line 3 of claim 1), “first connector mechanism” (line 6 of claim 1), and “second connector mechanism” (line 9 of claim 1) are not recited in the specification.

### ***Claim Objections***

Claim 1 is objected to because of the following informalities:

- The phrase(s) “front wall” (line 3 of claim 1), “first connector mechanism” (line 6 of claim 1), and “second connector mechanism” (line 9 of claim 1) are not recited in the specification. Furthermore, it is unclear which drawing elements, if any, are represented by the above-mentioned phrases.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Claim 1 contains subject matter, which was not described in

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the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The Specification and Drawings do not support the claim 1 limitations “the rear wall of the rail connector is slidably movable along the front wall of the bracket” (lines 7-8 of claim 1) and “a second connector mechanism fixedly connecting the rail connector to the bracket” **at the same time** (emphasis added). In other words it appears that at the time the invention was filed the inventor(s) did not have possession of an invention comprising a bracket and rail connector that were both “slidably movable” and “fixed” to one another **at the same time** (emphasis added). Claims 2-14 depend from claim 1 and thus are similarly rejected.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5 and 7-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Francis (U.S. Patent 4,767,232).

Claim 1. Francis discloses (figs. 2-4) a rail clip for attaching a rail to a post, the rail clip comprising: a bracket (20) adapted to be mounted on the post (10), the bracket having a front wall (wall of 20 contacting 22) a rail connector (22) having a rear wall (wall of 22 contacting 20) which lies in abutting contact with the front wall of the bracket; a first connector mechanism (84) disposed on the rail connector and bracket that interlocks the rail connector and bracket together;

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whereby the rear wall of the rail connector is slidably movable (during rotation) along the front wall of the bracket; a second connector mechanism (80) fixedly connecting the rail connector to the bracket; and wherein the second connector mechanism is engaged when the rail connector is disposed at a desired position on the front wall of the bracket.

Claim 2. Francis discloses that the front wall of the bracket is arcuate and the rail connector slidably engages the front wall of the bracket and wherein the position of the rail connector is adjusted by sliding the rail connector along the front wall of the bracket.

Claim 5. Francis discloses that the rear wall of the rail connector is complementary shaped to the front wall of the bracket; and wherein the rail connector further comprises a peripheral wall (wall of 22 receiving 80) extending outwardly away from the rear wall of the rail connector and defining an internal cavity (cavity of 22 receiving 80), the cavity being adapted to receive (but not necessarily receiving) an end of a rail therein (i.e. a rail that has a smaller diameter than the cavity).

Claim 7. Francis discloses that a portion of the peripheral wall includes side walls (side walls of cavity in 22 receiving 80) having an interior face (interior face of 22 receiving 80), an exterior face (exterior face of 22) and front and back edges, (front and back edges of 22) and the side walls extend a short distance inwardly beyond the rear wall thereby forming a lip (lip of 22 receiving tip of 20) between the back edge of the side wall and the rear wall of the rail connector.

Claim 8. Francis discloses that the back edges of the side walls are concave in shape.

Claim 9. Francis discloses that the back edge of the side walls is adapted to be complementary shaped with the front wall of the bracket (in that it fits within).

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Claim 10. Francis discloses that the lip further includes a ridge (edge of cavity in 22 receiving 80), the ridge running along the back edge of the side wall.

Claim 11. Francis discloses that the bracket (20) defines a first groove (groove receiving 84) and the ridge of the rail connector (22) interlocks (via 84 and 80) with the first groove so as to connect the rail connector and bracket together while allowing sliding (rotational sliding) engagement between the bracket and rail connector; the ridge and the first groove comprising the first mechanism for securing the bracket and the rail connector together.

Claim 12. Francis discloses that the bracket has a rear wall (23) and the rear wall is substantially flat and is adapted to abut a substantially flat wall on the post.

Claim 13. Francis discloses that the second connector mechanism extends through the rear wall of the rail connector and into the front wall of the bracket.

Claim 14. Francis discloses that the second connector mechanism is a screw.

***Allowable Subject Matter***

Claims 3, 4 and 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 1st paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 3 and 4. Francis does not disclose or suggest that the first mechanism comprises a first groove and boss as recited. Claim 4 depends from claim 3 and accordingly is similarly objected to.

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Claim 6. Francis discloses that the rear wall is concave in shape (near central cavity) within the broadest reasonable interpretation of the claim language. However, Francis does not disclose that the rear wall projects partially into the interior cavity of the rail connector.

***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new grounds of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor MacArthur whose telephone number is (703) 305-5701. The examiner can normally be reached on 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



VLM  
March 31, 2005



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SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600